

REMARKS

The Office Action mailed October 10, 2003, has been reviewed. Claims 8 and 9 were rejected under 35 U.S.C. Section 112, second paragraph. Claims 1, 2, 5-7, 10 and 11 were rejected under 35 U.S.C. Section 102(b). Claims 3 and 4 were rejected under 35 U.S.C. Section 103(a). Claims 9, 12 and 13 were rejected under 35 U.S.C. Section 103(a). The Examiner kindly allowed claims 14-38.

Applicants wish to express their appreciation to the Examiner for the allowance of claims 14-38. Applicants respectfully traverse the above-referenced rejections of the above-referenced claims. Reconsideration of the rejections is respectfully requested based on the amendments and the remarks provided herein.

Amendments to the Claims

Independent claims 1 and 12 have been amended. Dependent claims 8, 9 and 11 have been amended. Claim 10 has been canceled.

Claim 1 has been amended to specify a means for releasing the products from the flexible bag so that upon release at least a number of the products are completely ejected from the bag. The means includes a removable portion including a tab which extends outward a distance away from the bag. The tab is configured to be pulled to remove the removable portion such that the number of products are completely ejected from the bag. Claim 12 has been amended in a similar manner, and also specifies a plurality of interfolded paper products. Antecedent basis for the amendments to claim 1 and 12 are found in the specification at page 20, lines 2-13, page 13, lines 9-26, and Figures 1 and 7.

Dependent claims 8 and 9 have been amended to remove the phrase "in the housing". In addition, claim 10 has been canceled, and claim 11 has been amended to depend from claim 1.

The Claim Objections and the 35 U.S.C. Section 112 Rejection

Claims 8 and 9 were rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for reciting dispenser structure. Claims 8 and 9 have been amended to remove the dispenser structure. Accordingly, Applicants

respectfully submit that the appropriate amendments have been made to remove the indefinite language, therefore, the rejection should be withdrawn.

The 35 U.S.C. Section 102(b) Rejection

As stated above, claims 1, 2, 5-7 10 and 11 were rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Pat. No. 5,022,216 to Muckenfus et al. (hereinafter "Muckenfus"). Applicants respectfully traverse the rejection.

Claim 1 has been amended, as described above. Muckenfus illustrates a bag in which products are compressed and inserted into the bag. The bag has a tear initiating point 67 formed as a part of the bag which includes lines of weakness 65, 66 which permit it to be separated from the bag, and to be pulled by a user to create an opening at one corner of the bag. The Muckenfus bag does not have a tab which extends outward a distance away from the bag.

The opening of the Muckenfus bag is created such that the compressed products, namely diapers, adjacent the opening may be withdrawn from the bag. The bag and the opening therein are not configured such that the diapers adjacent the opening would immediately be completely ejected from the bag. The diapers would merely be accessible to be withdrawn from the bag by a user. The bag and opening are in fact configured to prevent the diapers immediately adjacent the opening from being ejected out of the bag, because this would be an undesirable result to the user of the bag of diapers.

The present invention, as defined above by the amended claims, provides a removable portion including a tab which extends outward a distance away from the bag. The tab is configured to be pulled to remove the removable portion such that the number of products adjacent the removable portion are completely ejected from the bag.

Muckenfuhs therefore fails to disclose, teach, or suggest, a removable portion including a tab which extends outward a distance away from the bag. Similarly Muckenfus fails to teach that when the bag is opened, the diapers adjacent the opening are immediately ejected out of the bag. In contrast, Muckenfus discloses, teaches, and suggests an opening configured to permit access to the diapers but also configured to contained the diapers within the bag

for the convenience of the user, not to completely eject the diapers adjacent the opening out of the bag as soon as the opening is created.

To anticipate, each and every element must be disclosed in the reference. Muckenfus does not disclose each and every element of claim 1, as now amended. Applicants respectfully submit that Muckenfus fails to anticipate claim 1, as now amended. Similarly, claims 2, 5-7, and 11 depend, directly or indirectly, from claim 1, and therefore incorporate all of the limitations of amended claim 1. Therefore, Applicants respectfully submit that the 35 U.S.C. 102(b) rejection of claim 1, 2, 5-7 and 11 should be rescinded.

The 35 U.S.C. Section 103(a) Rejection

As noted previously, claims 3 and 4 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Muchenfus. Claims 9, 12 and 13 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Muckenfus in view of U.S. Pat. No. 5,657,900 to Scherr (hereinafter "Scherr"). Applicants respectfully traverse these rejections.

Muckenfous, and the amendment to claim 1, have been discussed above. Scherr shows a dispenser 10 for plastic bags 21. Scherr also shows a triangular flap in one panel 11 of the dispenser and formed by perforations 23. When the flap is removed via the perforations, the plastic bags 21 therein may be withdrawn through the opening 30 created in the dispenser 10. Scherr fails to disclose, teach, or suggest elements claimed in amended claims 1 and 12, such as a removable portion including a tab which extends outward a distance away from the bag. Similarly Scherr fails to teach that when the bag is opened, the plastic bags adjacent the opening are immediately ejected out of the bag. In contrast, the Scherr dispenser discloses, teaches, and suggests an opening configured to permit access to the plastic bags contained therein but also configured to contained the plastic bags within the dispenser for sequential dispensing to a user. Scherr does not disclose, teach, or suggest to completely eject the number of plastic bags adjacent the opening as soon as the opening is created. Again, this would be a highly undesirable result.

Claims 3, 4 and 9 depend from amended claim 1, and include all of the limitations of amended claim 1. Independent claim 12 has been amended in a similar manner to claim 1. Claim 13 depends directly from claim 12, and includes all of the limitations of amended claim 12. Therefore, for the reasons stated above, Applicants respectfully submit that claims 3, 4, 9, 12 and 13 are not rendered obvious by either Muckenfus, nor the combination of Muckenfus and Scherr. Applicants therefore respectfully submit that the 35 U.S.C. Section 103(a) rejection should be withdrawn.

The Examiner's Inquiry under 35 U.S.C. Section 103(a)

With regard to the Examiner's inquiry regarding joint inventors under 35 U.S.C. Section 103(a), the subject matter of the various claims was commonly owned at the time the inventions covered by the claims were made.

Conclusion

Accordingly, Applicants respectfully submit that all pending claims, as now amended, are in a condition for allowance. Applicants again express their appreciation for the allowance of claims 14- 38. Favorable action on claims 1-9, 12 and 13 is respectfully solicited.

Applicants' attorney would welcome an opportunity to discuss any portion of this submission with the Examiner; the Examiner is therefore encouraged to telephone the undersigned to resolve any remaining issues to pass this application to allowance. The undersigned may be reached at 770-587-8653.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,
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CERTIFICATE OF TRANSMISSION

I, Sue C. Watson, hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office Central Facsimile No.: (703) 872-9306 on March 5, 2004.

By Sue C. Watson
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